

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

JENNIFER DEGROSS and SHANE
DEGROSS,

CASE NO.: _____

v.

ROSS HUNTER, in his personal capacity and in his official capacity as Secretary of the Washington State Department of Children, Youth, and Families, NATALIE GREEN, in her official capacity as Assistant Secretary of Child Welfare Field Operations, RUBEN REEVES, in his official capacity as Assistant Secretary for Licensing, and JEANINE TACCHINI, in her official capacity as Senior Administrator of Foster Care Licensing.

VERIFIED COMPLAINT

Defendants.

**VERIFIED COMPLAINT
(CASE NO.:)**

1

Alliance Defending Freedom
44180 Riverside Pkwy
Lansdowne, Virginia 20176
(571) 707-4655

INTRODUCTION

Shane and Jennifer DeGross provided a loving home for foster children for nine years. Inspired by their faith, they still want to open their home to children in need. And they will happily love any child placed in their home regardless of where the child comes from or how they identify, just as they did in the past without incident. But Washington revoked their foster-care license because of their religious beliefs about human sexuality—prioritizing an ideological agenda over children’s best interests by excluding capable parents who can care for children in need. That hurts the many children in foster care, discriminates against the DeGrosses, and violates the Constitution.

In 2022, the DeGrosses sought to renew their foster-care license through Olive Crest—a private licensing agency that helps to prepare applications for certification to Washington’s Department of Children, Youth, and Families (“DCYF,” or the “Department”). During that process, an Olive Crest licensor noted that the DeGrosses “both have a heart for serving children in [their] community,” and that their “faithful ministry to children in Washington has been a blessing.”

17 Despite their faithful service, the Department rejected the DeGrosses'
18 application because they would not speak or act contrary to their religious
19 convictions. Department regulations require foster parents to speak and affirm
20 certain views on human sexuality to obtain a foster-care license. This includes
21 agreeing to use a child's chosen pronouns, taking a child to "cultural and
22 educational activities" like pride parades, and adopting a lifestyle that affirms the
23 State's views on sexual and gender identities. Wash. Admin. Code § 110-148-
24 1520(2)(d). This rule applies categorically, regardless of the services applicants
25 seek, the ages of the children they seek to help, or the specific children eventually
26 placed in their homes. Washington officials invoked this rule to exclude the

1 DeGrosses from fostering *any child*, no matter their age, beliefs, or professed
 2 identity.

3 But a federal district court in Washington already found a nearly identical
 4 policy unconstitutional after the Department used it to exclude two other religious
 5 foster-care applicants. *Blais v. Hunter*, 493 F. Supp. 3d 984 (E.D. Wash. 2020). In
 6 response, the Department settled and agreed that “religious beliefs regarding
 7 LGBTQ+ issues cannot serve to disqualify” applicants, and that the State cannot
 8 require anyone “to express agreement with any policy regarding LGBTQ+ issues
 9 that conflicts with the applicant’s sincerely held religious views.” Ex. A at 2.
 10 Washington has decided to ignore that ruling, violate the prior injunction, and
 11 keep excluding people of faith (and others) from the foster and adoption system.

12 Washington’s blatant disregard for our judicial system matches its
 13 disregard for the First Amendment. The State violates the DeGrosses’ free-speech
 14 rights by forcing them to use words like pronouns while prohibiting them from
 15 expressing their deeply-held religious beliefs to a child—even if they seek to share
 16 those beliefs with a teenager who shares their religious views, or even if they seek
 17 to bring a toddler to church with them just one time. The State also violates the
 18 DeGrosses’ free-exercise rights through a policy that has many mechanisms for
 19 granting exemptions—unless that person has religious objections to the
 20 Department’s views on gender. In that case, the Department categorically excludes
 21 them, with no exceptions. But as the *Blais* court previously noted, “the
 22 Department must not discriminate against a foster care applicant based on their
 23 creed.” *Blais*, 493 F. Supp. 3d at 1002. Exactly what Washington has done—again.

24 Washington’s exclusionary practice is both illegal and wrong. The
 25 DeGrosses ask this Court to prohibit the Department from categorically excluding
 26 caregivers like them just because it does not like their religious views.

JURISDICTION AND VENUE

1. This civil-rights action raises federal questions under the First and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

2. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343.

3. This Court has authority to award the requested declaratory relief under 28 U.S.C. §§ 2201–02 and Fed. R. Civ. P. 57; the requested injunctive relief and damages under 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and the requested costs and attorney fees under 42 U.S.C. § 1988, and Fed. R. Civ. P. 54.

4. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1) and (2) because a substantial part of the events and omissions giving rise to the claims occurred in the Western District of Washington; the effects of the challenged statute are felt in this District; and at least one of the Defendants can and does perform their official duties in this District.

PLAINTIFFS

5. Jennifer (Jenn) DeGross is a United States Citizen who resides in Kitsap County, Washington.

6. Shane DeGross is a United States Citizen who resides in Kitsap County, Washington.

DEFENDANTS

7. Defendant Ross Hunter is the Secretary of Washington's Department of Children, Youth, and Families ("DCYF," or "the Department").

24 8. The Department is responsible for overseeing and administering the
25 Washington state foster-care system, including training and licensing foster
26 parents. Wash. Rev. Code § 74.15.030 (listing powers and duties of the secretary of
the Department).

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9. Defendant Hunter “has the complete charge and supervisory powers over the department,” and may also “delegate any power or duty” vested in him. Wash. Rev. Code § 43.216.025.

10. Defendant Green is the Assistant Secretary of Child Welfare Field Operations for the Department.

11. Defendant Green exercises authority over the Department's child-welfare operations in accordance with the powers and duties delegated to her by the Secretary. Wash. Rev. Code § 43.216.025.

12. Defendant Reeves is the Assistant Secretary for Licensing for the Department.

13. Defendant Reeves exercises authority over the licensing operations of the Department in accordance with the powers and duties delegated to him by the Secretary. Wash. Rev. Code § 43.216.025.

14. Jeanine Tacchini is the senior administrator for the Foster Care Licensing Division.

15. Defendant Tacchini exercises authority over the Licensing Division's publications, policies, and licensing decisions.

16. This lawsuit charges all of the Defendants in their official capacities.

17. This lawsuit also charges Defendant Hunter in his personal capacity.

FACTUAL BACKGROUND

The “crisis” in Washington’s foster care system

18. According to the Department, 4,165 children entered into Washington's foster-care system in the 2021 fiscal year.¹

¹ Washington State Department of Children, Youth & Families, Annual Foster Parent and Adoptive Home Recruitment Report Draft 2021–22 (2022 DCYF Recruitment Report) at 1, <https://perma.cc/HE6T-CMRT>.

1 19. From 2017 to 2021, Washington’s foster care system served over 10,000
 2 children annually.²

3 20. “As of June 30, 2021, 6,959 children and youth ages zero to seventeen
 4 were placed in out-of-home care.”³

5 21. A majority of those children were under the age of twelve, and 42.1%
 6 were between the ages of zero to ten.⁴

7 22. Washington seeks to establish permanency (a stable placement) as
 8 quickly as possible for all of its children in foster care.

9 23. But Washington suffers from “a shortage of caregivers willing and able to
 10 be a respite or placement resource.”⁵

11 24. The Department “needs active, licensed families willing to be a placement
 12 resource for children and youth placed in out-of-home care.”⁶

13 25. In particular, the Department needs families willing to take in children
 14 who can be more difficult to place, like children who are older, children who are part
 15 of sibling groups, children with behavioral issues, and children who are “medically
 16 fragile/medically complex.”⁷

17 26. According to Defendant Hunter, the Department “struggle[s] to recruit
 18 families who are willing to open their homes to teens.”⁸

19 27. And “DCYF continues to struggle with recruiting and retaining
 20 caregivers, specifically those with the skills, ability, and desire to parent children
 21 and youth with complex needs (extensive emotional, behavioral, and physical).”⁹

22
 23 ² The AFCARS Report: Washington: <https://perma.cc/9FMM-29G2>.

24 ³ 2022 DCYF Report, *supra* note 1, at 3.

25 ⁴ *Id.* at 3.

26 ⁵ *Id.* at 7.

27 ⁶ *Id.* at 7.

28 ⁷ *Id.* at 7.

29 ⁸ Ross Hunter, SOGIE Federal Rules, <https://perma.cc/D44R-S877>.

30 ⁹ Washington State Department of Children, Youth & Families, 2024 Annual Progress and Services
 31 Report (2024 DCYF Progress Report) at 209, <https://perma.cc/79RS-53XY>.

1 28. According to the 2022 annual report by the Office of the Family and
 2 Children's Ombuds, “[t]he placement resource crisis has only worsened as [the]
 3 child welfare system has experienced a significant drop in foster homes and
 4 congregate care providers in the past two years.”¹⁰

5 29. According to the 2022 report, “approximately 1,000 foster homes have
 6 either given up their foster license or have decided not to accept additional
 7 placements.”¹¹

8 30. The Washington State Family and Children’s Ombuds is an independent
 9 agency that investigates complaints against the Department, intervenes to correct
 10 policy or statutory violations, and seeks to help correct systemic issues that harm
 11 children and families.

12 31. According to the Ombuds’ 2023 annual report, “[d]ue to a chronic lack of
 13 placement resources, particularly for children with complex needs, for years DCYF
 14 has housed children in unlicensed placements such as hotels or night-to-night
 15 licensed foster homes until an appropriate placement became available.”¹²

16 32. The Department calls these types of stays in unlicensed facilities
 17 “placement exceptions.”

18 33. Washington placed 358 foster children in hotel rooms or other placement
 19 exceptions 4,570 times in the 2023 reporting year.¹³

20 34. In the past, children and youth have sometimes slept in DCYF offices or
 21 social workers’ cars.¹⁴

22 35. For example, there were “771 ‘office stays’ in 2021.”¹⁵

23 ¹⁰ State of Washington, Office of the Family and Children’s Ombuds, 2022 Annual Report (2022
 24 Ombuds Report) at 3, <https://perma.cc/MEQ7-7DGT>.

25 ¹¹ *Id.* at 9.

26 ¹² State of Washington, Office of the Family and Children’s Ombuds, 2023 Annual Report (2023
 27 Ombuds Report) at 3, <https://perma.cc/BCD3-L52H>.

¹³ *Id.* at 12.

¹⁴ State of Washington, Office of the Family and Children’s Ombuds, 2021 Annual Report at 16–18,
<https://perma.cc/4BTY-FEAZ>.

¹⁵ 2023 Ombuds Report, *supra* note 12, at 12.

36. The number of placement exceptions has increased six out of the last eight years—from 120 in 2015 to a peak of 4,692 placement exceptions in 2022.¹⁶

PLACEMENT EXCEPTIONS FOR FOSTER CHILDREN



37. In the 2023 fiscal year, this included over one-hundred children under ten, including thirty-two children who were four and under, who spent at least one night in temporary housing.¹⁷

38. The Ombuds director has described placement exceptions as “traumatic experiences for [foster] children.”¹⁸

39. According to the Ombuds office, “[h]ousing children in hotels and temporary facilities is disruptive for children and often traumatic.”¹⁹

40. Defendant Hunter has described the Department's use of placement exceptions as "the biggest problem [he has], operationally, in child welfare."²⁰

16 *Id.*

¹⁷ Office of the Family and Children's Ombuds, DCYF Use of Hotels and Offices as Placement, 2023 Report, <https://perma.cc/ET3U-8PHE>.

¹⁸ Chris Ingalls, ‘A hopeless feeling’: Former Washington foster child spent more than 100 nights in a hotel, King 5, Feb. 24, 2020, <https://perma.cc/A5BS-KH2B>.

¹⁹ 2023 Ombuds Report, *supra* note 12, at 6.

²⁰ Ingalls, *supra* note 18.

1 41. To address the “placement resource crisis,”²¹ the Department is engaged
 2 in recruitment and retention efforts to maximize the number of foster families on
 3 the Department’s roster.²²

4 42. Washington law states that “[w]ithin available resources, the department
 5 shall increase the number of adoptive and foster families available to accept
 6 children through an intensive recruitment and retention program.” Wash. Rev.
 7 Code 74.13.325; *see also id.* 74.13.031.

8 43. The Department is engaged in an “intensive workplan” to understand the
 9 drivers of caregiver attrition and to adopt better retention strategies.²³

10 44. According to the Department, retaining foster “families is vital,” because
 11 “the current placement crisis is a retention crisis, as tenured families are the ones
 12 who have the experience to take care of children and youth with higher needs.”²⁴

13 45. The Department seeks to “attract a diverse pool of caregivers who can
 14 meet the unique needs of children placed in out-of-home care,” including “caregivers
 15 who are ... culturally diverse.”²⁵

16 46. In 2021, Defendant Hunter stated: “Our [DCYF’s] focus is to increase our
 17 capacity to provide welcoming and affirming homes to ALL of the children and
 18 youth we serve.”²⁶

19 47. The Department is also seeking caregivers who are “[s]upportive of
 20 siblings staying together,” “[a]ware that foster care is temporary,” “[o]pen to caring
 21 for medically fragile/medically complex children,” “[o]pen to caring for children with
 22 extensive emotional, behavioral, and physical needs,” and “[o]pen and affirming of
 23 LGBTQIA+ youth.”²⁷

24 ²¹ 2022 Ombuds Report, *supra* note 10, at 3.

25 ²² 2022 DCYF Recruitment Report, *supra* note 1, at 4.

26 ²³ 2024 DCYF Progress Report, *supra* note 9, at 209.

27 ²⁴ *Id.*

28 ²⁵ *Id.* at 42.

29 ²⁶ SOGIE Federal Rules, *supra* note 8.

30 ²⁷ 2022 DCYF Recruitment Report, *supra* note 1, at 8.

1 The DeGrosses

2 48. Shane and Jennifer DeGross are Christians who want to open their home
3 to children in need.

4 49. For the DeGrosses, their faith is at the center of everything they do.

5 50. Following the Bible's command to live out their faith and to care for the
6 widow and the orphan, the DeGrosses felt called to provide foster care.

7 51. The DeGrosses were licensed foster parents with the State of Washington
8 from 2013 to 2022.

9 52. The DeGrosses have cared for four different girls as foster parents.

10 53. Their first placement was a newborn, whom they received directly from
11 the hospital. The DeGrosses cared for her for three months before the child's
12 grandmother adopted her.

13 54. Their second child was a two-year-old. The DeGrosses cared for her for
14 eighteen months before she returned to her biological mother.

15 55. Their third child was also a two-year-old. The DeGrosses cared for her for
16 almost two years.

17 56. Later, the DeGrosses opted to provide respite care, and cared for a three-
18 year-old girl for two weeks.

19 57. The DeGrosses have always treated their children as if they were their
20 own by including them in family events, showing them love, affection, and treating
21 them with respect as part of their natural family.

22 58. The DeGrosses are eager to continue serving children in need through
23 respite care and want to be certified so they can act as foster parents again in the
24 future.

25 59. And until the DeGrosses sought to renew their license in 2022, the
26 Department never raised any concerns about the DeGrosses' capacity to care for
foster children.

1 The licensing and placement process

2 *The application process*

3 60. To serve as foster parents, the DeGrosses must receive and retain a
 4 foster-care license from the Department.

5 61. Anyone seeking to open their home to an unrelated child from foster care
 6 must obtain such a license unless they fall under an exception or obtain a
 7 discretionary waiver—like those seeking to care for a relative. Wash. Admin. Code
 8 (WAC) § 110-148-1310; Wash. Dep’t for Child., Youth, & Fams., Policy 5120.²⁸

9 62. The initial licensure process takes approximately 120 days from
 10 application to completion.

11 63. A license is valid for three years, after which foster families must renew
 12 their license. *See* WAC § 110-148-1325(2).

13 64. Applicants can apply for or renew their license from the Department
 14 itself or a private “child placing” agency. WAC § 110-148-1300(1).

15 65. A child-placing agency is a third-party agency licensed by the
 16 Department to perform some of the Department’s responsibilities, like training
 17 foster families, placing children in adoptive homes, or renewing a foster care license.
 18 Wash. Rev. Code § 74.15.100; WAC § 110-148-1305.

19 66. If an applicant applies for or seeks to renew their license through a
 20 private agency, the agency “may make application for a license on behalf of any
 21 such foster family home” to the Department. Wash. Rev. Code § 74.15.100.

22 67. “The final decision for licensing is the responsibility of DCYF.” WAC
 23 § 110-148-1305.

24 68. The licensing process includes in-person and online video training,
 25 background and criminal-history checks, and paperwork on the applicant’s medical

²⁸ Policy 5120, <https://perma.cc/6SXW-C6AP>. Department policies are available here:
<https://www.dcyf.wa.gov/practices-and-procedures>.

1 and financial history. WAC §§ 110-148-1320 (training, background checks, medical
 2 screening); -1375 (training); -1440–1515 (home safety requirements).

3 69. The licensing process also involves a home study. Wash. Dep’t for Child.,
 4 Youth, & Fams., Policy 5110.²⁹

5 70. In fact, any person seeking to care for a child in foster care must obtain a
 6 home study, “regardless of whether the applicant intends to be foster-care licensed
 7 or an unlicensed caregiver.” *Id.*

8 71. The home study includes interviews with the applicant and home
 9 inspections and seeks to pull together information about the applicant’s family,
 10 cultural background, history of trauma, health, education, finances, caregiving
 11 experience, and more. *Id.*

12 72. Renewing a foster-care license has similar, abridged requirements,
 13 including a home inspection, renewal assessment, and updated background checks.
 14 WAC 110-148-1340(2).

15 *Licensing standards*

16 73. As part of the licensing process, “[t]he department or child placing agency
 17 will assess” the applicant’s “ability to comply with the licensing requirements.”
 18 WAC § 110-148-1370(1)(a).

19 74. Private agencies must certify that a home “meet[s] the full licensing
 20 requirements outlined in chapter 110-148 WAC” as part of the application to the
 21 State. WAC §§ 110-147-1300; -1305 (defining “certification”); -1345 (allowing
 22 agencies to certify an applicant meets licensing requirements).

23 75. “A license shall be granted if the [applicant] meets the minimum
 24 requirements set forth in” Washington’s code “and the departmental requirements.”
 25 Wash. Rev. Code § 74.15.100.

²⁹ Policy 5110, <https://perma.cc/ZS6G-K7YJ>.

1 76. But “[t]he department has the final approval for licensing”—retaining the
 2 discretion to reject any application, even if an agency certified that the applicant
 3 met the Department’s minimum requirements. WAC § 110-148-1350(5).

4 77. The licensing assessment includes, “but is not necessarily limited to”:

- 5 • [The applicant’s] ability to comply with the licensing requirements;
- 6 • The physical condition of [their] home and property;
- 7 • The physical and mental health of all members of the household; and
- 8 • [Their] ability to provide sufficient income to meet the financial needs
 of your family without the foster care reimbursements for foster
 children in your care.

9
 10 WAC § 110-148-1370(1)

11 78. Other regulations similarly provide that caregivers are evaluated to
 12 ensure they can “provide a safe home,” “provide the quality of care needed by
 13 children placed in [the] home,” and that the caregiver can “meet training
 14 requirements.” WAC § 110-148-1320(7).

15 79. Washington’s “[l]icensing requirements are designed to ensure children
 16 who are in foster care are safe, healthy and protected from all forms of child abuse
 17 and neglect.” See WAC § 110-148-1300.

18 80. These licensing requirements are designed to vet an applicant’s *general*
 19 fitness and ability to care for children, rather than their fitness or ability to
 20 adequately care for a *specific* child. Wash. Rev. Code § 74.15.030 (setting out the
 21 Department’s authority “to adopt and publish minimum requirements for
 22 licensing”); WAC § 110-148-1300 (setting out “licensing requirements for all foster
 23 homes”).

24 81. The Department also has the authority to license or certify caregivers to
 25 care for a specific child. Wash. Rev. Code § 74.15.120 (setting out Department’s

1 authority to issue a child-specific license); WAC § 110-148-1326 (same); *see infra*
 2 ¶¶ 89–92 (describing kinship care).

3 *Individualized assessments*

4 82. While the licensing process evaluates an applicant’s ability to meet the
 5 Department’s minimum standards, the Department still requires individualized
 6 assessments of caregivers.

7 83. For example, the Department instructs child-welfare workers completing
 8 a home study to “consider how all children and families are unique and meet them
 9 where they’re at.”³⁰

10 84. Licensing workers are supposed to “[c]onsider each person’s uniqueness
 11 and culture when” conducting the home study, and to “[e]nsure the health, safety,
 12 and well-being of children throughout the assessment; check your bias and realize
 13 when you’re applying a dominant culture lens.”³¹

14 85. Within the past five years, the Department has provided more flexibility
 15 to license or certify caregivers according to their unique situations.

16 86. For example, the Department previously used a unified home-study
 17 approach that required all caregivers to meet the same requirements.

18 87. This meant caregivers seeking to provide foster care or to solely care for
 19 family members still had to meet “additional criteria for adoption.”³²

20 88. The unified home-study approach “created barriers for families and
 21 delayed the timeliness of home study completion.”³³

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 23
 24
 25 ³⁰ Washington State Department of Children, Youth & Families, The Home Study Practice Guide
 26 at 6, <https://perma.cc/R5ZQ-YEDG>.

³¹ *Id.*

³² *Id.* at 4.

³³ *Id.*

1 89. Now, the Department uses “specialized tracks” that “divide[] the home
 2 study and licensing requirements into specific types of home studies that may be
 3 completed, including Kinship Care, Kinship License, and Foster License.”³⁴

4 90. Kinship care refers to the Department’s discretion to place children with
 5 unlicensed caregivers who are “relatives or suitable other persons.” Wash. Dep’t for
 6 Child., Youth, & Fams., Policy 4527; *see also* Wash. Rev. Code § 74.15.020(2)(a)
 7 (listing relatives).³⁵

8 91. “A suitable person” is someone a) who has a preexisting relationship with
 9 a child, b) with whom the child is comfortable, c) who is able and willing to care for
 10 the child, and d) who has passed DCYF background checks. Policy 4527.

11 92. This means caregivers for family or close friends need not obtain a
 12 license. Instead, they may obtain a child-specific home study that evaluates their
 13 ability to care for a specific child. Wash. Dep’t for Child., Youth, & Fams., Policy
 14 45274 (“unlicensed caregivers will have an approved home study for the child being
 15 placed”); *see generally* WAC § 110-16-0010.³⁶

16 93. The Department also has a mechanism for granting exemptions.

17 94. The Department may “make exceptions and license or continue to license
 18 [an applicant] if [they] do not meet the minimum licensing requirements” if the
 19 Department determines they “can provide for the safety, health and well-being of
 20 children in [their] care.” WAC § 110-148-1630(1).

21 95. The Department “*may* modify, deny, suspend, or revoke” a license for
 22 several reasons, including if a home does “not meet the licensing requirements,”
 23 “cannot provide for the safety, health, and well-being of the children in [their] care,”
 24 or if a home “cannot or will not support a child’s cultural needs including needs

25
 26 ³⁴ *Id.*

³⁵ Policy 4527, <https://perma.cc/NAQ5-VKGY>.

³⁶ Policy 45274, <https://perma.cc/AQ9E-2JG4>.

1 based on the child's race, ethnicity, religion, or SOGIE [sexual orientation, gender
 2 identity, and gender expression]." WAC § 110-148-1625 (emphasis added).

3 96. The Department allows individualized assessments because although
 4 every foster home is not an appropriate placement for any child, some homes are
 5 well suited to care for certain children based on kinship relationships, or shared
 6 heritage, culture, or religious beliefs. *E.g., infra ¶¶ 121–31.*

7 97. The placement process similarly involves an individualized assessment of
 8 a caregiver's strengths, background, and (sometimes) personal preferences, to
 9 match children with families that are well suited for each other.

10 98. For example, the Department provides prospective caregivers with
 11 information about a child before a placement so that caregivers can decide whether
 12 to accept the placement.

13 99. Caregivers "have the right to decline, to admit, or keep a child in [their]
 14 home, unless [their] decision violates the Washington state law against
 15 discrimination." WAC § 110-148-1395(1).

16 100. Washington's law against discrimination states: "The right to be free
 17 from discrimination because of race, creed, color, national origin, citizenship or
 18 immigration status, sex, honorably discharged veteran or military status, sexual
 19 orientation, or the presence of any sensory, mental, or physical disability ... is
 20 recognized as and declared to be a civil right." Wash. Rev. Code § 49.60.030(1).

21 101. Yet the Department grants exemptions from this requirement.

22 102. The Department states on its website that: "Families are able to note
 23 their preference for children they wish to have placed in their care.³⁷

24 103. And caregivers may categorically decline to take children based on some
 25 characteristics protected under the law against discrimination.

26 ³⁷ <https://perma.cc/C7YN-4UEK>, under: "As foster parents, do we get to choose the age and gender of
 the young people placed in our care?"

1 104. The Department requires every prospective caregiver to complete a
 2 Personal Information Form collecting information on the applicant's family
 3 background, education, employment, relationships, and culture.

4 105. The form includes a section asking applicants whether they would
 5 "consider providing care and support to a child" with certain behavioral or physical
 6 traits, including "medical needs," "developmental delays," "mental health
 7 diagnoses," or "learning disabilities."

Children & Youth We Serve	
What population of children do you see yourself providing care to?	_____
Would you consider providing care and support to a child... (Mark all that apply)	<input type="checkbox"/> ... with trauma history? <input type="checkbox"/> ... with substance abuse behaviors? <input type="checkbox"/> ... with medical needs? <input type="checkbox"/> ... with physically aggressive behaviors? <input type="checkbox"/> ... with developmental delays? <input type="checkbox"/> ... with mental health diagnoses? <input type="checkbox"/> ... who is a teen parent? <input type="checkbox"/> ... with behavioral needs? <input type="checkbox"/> ... with learning disabilities?

13 106. Using this information, the Department allows caregivers and applicants
 14 to decline to take children with mental health diagnoses, physical disabilities,
 15 medical needs, or developmental delays.

16 107. The Department accommodates other types of preferences as well.

17 108. The Department allows caregivers to express a preference based on sex or
 18 to categorically decline to take children of one sex.

19 109. The Department allows caregivers to express a preference or to
 20 categorically decline to take children based on other characteristics as well, like age.

21 110. Indeed, the Department will sometimes license caregivers for certain
 22 types of children (like children within a certain age range) and not others.

23 111. Further, the Personal Information Form asks applicants: "What
 24 population of children do you see yourself providing care to?"

25 112. This open-ended question gives the Department discretion to
 26 accommodate any preference on a case-by-case basis.

1 113. The Department also allows caregivers to decline to take children at the
 2 placement stage if they feel they are not a good fit based on the child's unique
 3 circumstances.

4 114. According to the Department: "Foster families should never feel like they
 5 need to take a placement that they are not equipped to care for"³⁸

6 115. According to the Department: "It is important for foster parents to know
 7 what is and is not a fit in their home."³⁹

8 116. On information and belief, the Department allows caregivers to decline
 9 children if they feel that religious differences would make the placement a poor fit.

10 117. On information and belief, the Department allows caregivers to decline
 11 children if they feel that cultural differences would make the placement a poor fit.

12 *The "child's best interests" principle*

13 118. When the Department places a child in out-of-home care, the Department
 14 seeks "a placement that is most aligned with the child's best interests, and safe,
 15 stable, and least restrictive in close proximity to the parent and the child's school
 16 when possible." Wash. Dep't for Child., Youth, & Fams., Policy 4250.⁴⁰

17 119. "If there is a conflict about a placement setting, the child's placement
 18 should be made based on what is in their best interest." *Id.*

19 120. Federal spending-clause statutes applicable to Washington similarly
 20 require states to place children in "the least restrictive (most family like) and most
 21 appropriate setting available ... consistent with the best interest and special needs
 22 of the child." 42 U.S.C. § 675(5).

23
 24
 25
 26 ³⁸ *Id.*, under: "Are foster parents able to determine what may or may not be a good fit in their home?"

³⁹ *Id.*

⁴⁰ Policy 4250, <https://perma.cc/Q7P6-DWJZ>.

1 121. “Preferences such as family constellation, sibling relationships, ethnicity,
 2 and religion shall be considered when matching children to foster homes.” Wash.
 3 Rev. Code § 13.34.260. *See also* Policy 4250.

4 122. Placing a child in out-of-home care with relatives is considered less
 5 restrictive (more family-like) than placing the child with strangers.

6 123. Thus, the Department prioritizes kinship placements as the “preferred
 7 option.” Wash. Rev. Code § 74.13.290; Policy 4527.

8 124. “Benefits for children and youth placed in kinship care are plentiful,
 9 including minimizing trauma caused by the removal, improving the children’s
 10 wellbeing, increasing permanency for children, improving behavioral and mental
 11 health outcomes, promoting sibling ties, and preserving children’s cultural identity
 12 and community connections.”⁴¹

13 125. Further, “the department, absent good cause, shall follow the wishes of
 14 the natural parent regarding the placement of the child with a relative or other
 15 suitable person” Wash. Rev. Code § 13.34.260(1).

16 126. When a kinship placement is not possible, the Department may place a
 17 child with licensed caregivers like the DeGrosses.

18 127. The Department seeks to match children with families that can—
 19 consistent with the child’s best interests—promote cultural permanency.

20 128. Cultural permanency refers to “a continuous connection to family,
 21 tradition, race, ethnicity, culture, language, and religion.”⁴²

22 129. According to the Department, “[c]ulture is everything.... A person’s
 23 cultural background includes family traditions, customs, sexual orientation, gender
 24 identity and expression (SOGIE), religious/spiritual beliefs, recreational activities,
 25 personal interests, and lifestyle.”⁴³

26 ⁴¹ 2022 DCYF Recruitment Report, *supra* note 1, at 3.

⁴² Home Study Practice Guide, *supra* note 30, at 12.

⁴³ *Id.* at 13

1 130. “DCYF holds foundational beliefs that children live with people with
 2 whom they can maintain their personal and cultural identity[.]”⁴⁴

3 131. Thus, “ethnicity, culture, and religion must be considered when matching
 4 a child to a foster home.” Policy 4250.

5 132. The Department may also consider the “[r]ace, color, or national origin of
 6 the foster parent or child,” so long as these traits are “not … the basis for any delay
 7 or denial of placement.” *Id.*

8 The Department’s past discrimination against religious caregivers.

9 133. Washington law protects both children and prospective caregivers from
 10 discrimination based on traits like religion, ethnicity, or sexual orientation. Wash.
 11 Rev. Code §§ 49.60.030(1); 74.13.332 (“Foster parents have the right to be free of
 12 coercion[and] discrimination....”).

13 134. But in 2020, a couple successfully sued the Department for religious
 14 discrimination related to its now-repealed policy on “Supporting LGBTQ+ Identified
 15 Children and Youth.” *Blais*, 493 F. Supp. 3d at 995 (cleaned up).

16 135. In *Blais*, the plaintiffs challenged Washington Department for Children,
 17 Youth, & Families, Policy 6900⁴⁵, which was “the Department’s policy on how
 18 Department staff will make sure children who identify as LGBTQ+ have safe and
 19 affirming care.” *Id.* at 991 (cleaned up).

20 136. Policy 6900 included a directive to “[u]se gender neutral and inclusive
 21 language,” including “mirroring language the child or youth uses to describe
 22 themselves.”

23 137. Policy 6900 required Department staff to “[u]se and allow children and
 24 youth to use a different name, pronoun and gender that reflects their LGBTQ+
 25 identity instead of their legal name and sex assigned at birth.”

26

⁴⁴ 2024 DCYF Progress Report, *supra* note 9, at 70.

⁴⁵ Policy 6900, <https://perma.cc/JPF3-KSDQ?type=image>.

1 138. Policy 6900 required Department staff to “[c]onsider the child or youth’s
 2 LGBTQ+ identity as a factor when making placement decisions,” including
 3 “[d]etermining, on a case-by-case basis, which placement option would be in the
 4 child or youth’s best interest for their safety and well-being.”

5 139. Policy 6900 also required Department staff to “[s]upport any youth
 6 identifying as transgender and seeking gender affirming medical services.”

7 140. While the policy facially applied to Departmental staff, in practice it was
 8 applied to prospective foster parents as well. *Blais*, 493 F. Supp. 3d at 996.

9 141. The plaintiffs in the case, James and Gail Blais, sought to care for their
 10 great-granddaughter. *Id.* at 989.

11 142. The Department rejected the Blaises’ license application because of their
 12 religious objections to Policy 6900.

13 143. The couple subsequently sued Defendant Hunter for religious
 14 discrimination and moved for a preliminary injunction.

15 144. A federal court ruled for the couple on their free-exercise claim and
 16 preliminarily enjoined the Department from using Policy 6900 to exclude
 17 “prospective foster care license applicants.” *Id.* at 1001–02.

18 145. Washington later agreed to a settlement and permanent injunction
 19 ending its discriminatory practices. Ex. A, B.

20 146. Specifically, the injunction permanently enjoined DCYF “from requiring a
 21 foster family home license applicant or a family home study applicant to express
 22 agreement with any policy regarding LGBTQ+ issues that conflicts with the
 23 applicant’s sincerely held religious views.” Ex. A at 2.

24 147. Under the injunction, the Department “[m]ay take an applicant’s views
 25 on LGBTQ+ issues into account when reviewing foster family home license
 26 applications or family home study applications. However, the applicant’s sincerely
 held religious beliefs regarding LGBTQ+ issues cannot serve to disqualify them.” *Id.*

1 The Department's continued discrimination against religious caregivers

2 *The new SOGIE regulations*

3 148. Because Defendant Hunter was the named defendant in *Blais v. Hunter*,
 4 Hunter knew, or should have known, about the constraints placed on the
 5 Department as part of the settlement the Department agreed to.

6 149. Then, several months after the permanent injunction was issued in *Blais*
 7 *v. Hunter*, Defendant Hunter published a statement about Washington's non-
 8 discrimination policies.

9 150. This statement was posted on the Department's website.⁴⁶

10 151. The same statement (save for one sentence that was placed in a different
 11 location) was posted on Hunter's personal website as well, under the title "WA
 12 Won't Discriminate."⁴⁷

13 152. In this statement, Hunter commented on recent changes to federal rules
 14 on "discriminating on the basis of sexual orientation, gender identity and
 15 expression, (SOGIE) or on religion."⁴⁸

16 153. According to the statement, "Washington does not allow this kind of
 17 discrimination today, and won't allow it in the future."⁴⁹

18 154. According to the statement,

19 Washington requires potential foster parents to accept ALL
 20 children and youth for who they are. We do not grant licenses to
 21 families that are unwilling to be accepting of a child or youth
 22 who explores their sexual orientation, gender identity, or gender
 23 expression and comes out while in their care. The odds are too
 24 big to allow this to happen....⁵⁰

25

⁴⁶ SOGIE Federal Rules, *supra* note 8.

26 ⁴⁷ Ross Hunter, WA Won't Discriminate, <https://perma.cc/RMV9-NEXW>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

1 155. After Washington discontinued Policy 6900, the State passed new
 2 regulations requiring foster-care applicants to support and affirm a child's SOGIE.

3 156. Relevant here, the Department revised Washington Administrative Code
 4 § 110-148-1520 ("§ 1520"), which provides a list of "services" foster families are
 5 "expected to provide to children in [their] care."

6 157. Section 1520 states:

7 ...

8 **(2) You must provide and arrange for care that is**
 9 **appropriate for the child's age, SOGIE, and development**
 including:

- 10 (a) Emotional support;
- 11 (b) Nurturing and affection;
- 12 (c) Structured daily routines and living experiences; and
- 13 (d) Activities that promote the development of each child.
 This includes cultural and educational activities in your
 14 home and the community.

15 ...

16 **(6) You must follow all state and federal laws regarding**
 17 **nondiscrimination while providing services to children in your**
 care. You must support and engage with foster children in your
 18 care with dignity and respect regardless of actual or perceived
 race, ethnicity, culture, sex, or SOGIE.

19 **(7) You must connect a foster child with resources that**
 20 **supports and affirms their needs regarding race, religion,**
 culture, and SOGIE. These resources include emotional
 21 and developmental support for a child's ethnic identity and
 SOGIE, educational needs, and spiritual activities in your home
 22 and community

23 ...

24 **(9) You must support a foster child's SOGIE by using their**
 pronouns and chosen name

25 WAC § 110-148-1520 (emphasis added).

158. The Department requires licensing agencies to describe how an applicant will comply with § 1520 in the home study, under a section titled “Diversity, Equity and Inclusion.”⁵¹

Diversity, Equity and Inclusion (Shared by Applicant A & B if applicable)

Cultural background:

Support child's cultural background:

Understanding racism:

Support a child's religious/spiritual affiliation:

Support a child's sexual orientation, gender identity, and expression (SOGIE):

Support a child who identifies as lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual, and + (LGBTQIA+). The "+" represents identities not specifically named in the acronym, e.g. pansexual, gender nonbinary, and Two-Spirit.

Ability to Parent:

159. The Department publishes a Home Study Practice Guide that provides information on how the Department interprets and applies § 1520's requirements.⁵²

160. The practice guide states that: “Regardless of a child’s age or the age range the applicants wish to be licensed for, they must be willing to support all children and their LGBTQIA+ identity.”⁵³

161. The practice guide states that: “[w]hether the child’s or youth’s SOGIE is known at that time, it is vital to discuss how to appropriately support those who may identify as LGBTQIA+, therefore supporting children and youth.”⁵⁴

162. Supportive practices include:

- Using “chosen names and pronouns.”
- Displaying “Pride flags or similar indicators.”

⁵¹ See Form 10-043 (Home Study), <https://perma.cc/8JCR-29QB>.

⁵² Home Study Practice Guide, *supra* note 30, at 50.

⁵³ *Id.* at 55.

⁵⁴ *Id.* at 54.

1 • Having “LGBTQIA+ authors, musicians, and artists in your
 2 collections.”⁵⁵

3 163. The practice guide contains sample interview questions as well, like:

4 • How will you adapt to the request to call a child or youth by
 5 their chosen name and pronouns?
 6 • How will you actively support a child or youth to become or
 7 remain engaged in their LGBTQIA+ related activities and
 8 community?
 9 • How will you seek supportive and affirming medical care for
 10 the child or youth in your care?
 11 • How will you seek supports [sic] or counseling to help
 12 yourself and your family’s assimilation process and learn
 13 supportive language or strategies?

14 164. Defendant Hunter is responsible for overseeing and implementing the
 15 Department’s regulations, including § 1520.

16 165. On information and belief, Defendant Hunter approved § 1520, including
 17 the requirements related to SOGIE.

18 166. Section 1520 is substantially similar to Policy 6900.

19 167. Like Policy 6900, § 1520 requires caregivers to use a child’s self-selected
 20 pronouns.

21 168. Like Policy 6900, § 1520 requires caregivers to agree to support behavior
 22 and ideas involving hypothetical children “who might in the future develop or
 23 identify as LGBTQ+.” *Blais*, 493 F. Supp. 3d at 989.

24 169. Like Policy 6900, the Department utilizes § 1520 to disqualify persons
 25 because of their “sincerely held religious beliefs regarding LGBTQ+ issues.” Ex. A
 26 at 2.

⁵⁵ *Id.*

1 170. If an applicant is not willing to use pronouns or otherwise support or
 2 affirm a child's behavior or ideas about gender identity, the Department will deny
 3 their application.

4 *The Department's different approach to supporting religious practices*

5 171. Department regulations require caregivers to support other aspects of a
 6 child's identity as well.

7 172. But the Department does not require applicants to support a child's
 8 cultural or religious identity in the same way applicants must agree to support a
 9 child's SOGIE.

10 173. Washington's law against discrimination prohibits discrimination based
 11 on creed, and Department regulations prohibit discrimination against foster
 12 parents. Wash. Rev. Code §§ 49.60.030(1); 74.13.332.

13 174. The Department's policy promoting culturally responsive care states that
 14 cultural permanence includes a child's ability to maintain ties to their
 15 "religious/spiritual beliefs." *Supra* ¶ 129.

16 175. And § 1520 requires caregivers to "support a child's religion or spiritual
 17 practices" in various ways. WAC § 110-148-1520(8).

18 176. In interpreting and applying these statutes and policies, the Department
 19 does not categorically require caregivers to agree to express messages supporting a
 20 child's religion or spirituality that violate the caregiver's own belief systems.

21 177. In interpreting and applying these statutes and policies, the Department
 22 does not categorically require caregivers to engage in activities supporting a child's
 23 religion or spirituality that violate the caregiver's own belief systems.

1 178. For example, to complete the home study, an agency must “[a]ssess
 2 whether the applicants can be *respectful* of spiritual practices different than their
 3 own.”⁵⁶

4 179. To assess whether a caregiver will respect a child’s religious or spiritual
 5 practices, an agency asks whether the caregiver will “allow a child to actively
 6 participate in their identified religion/spiritual practices.”⁵⁷

7 180. To assess whether a caregiver will respect a child’s religious or spiritual
 8 practices, an agency asks whether the caregiver is “willing to adjust their personal
 9 commitments to provide a child the opportunity to participate in their
 10 religious/spiritual practices.”⁵⁸

11 181. Under § 1520, to “support” a child’s religious practices, caregivers must
 12 similarly agree to “to provid[e] adequate opportunities for religious or spiritual
 13 training and allowing a child meaningful participation appropriate to the child’s
 14 spiritual beliefs.” WAC § 110-148-1520(8).

15 182. Caregivers need not categorically agree to use a child’s religious texts or
 16 to say religious prayers.

17 183. Caregivers need not categorically agree to affirm through their speech
 18 and behavior that a child’s creed or religion is true and valid.

19 184. But Department policies categorically require caregivers to agree to
 20 speak messages supporting a child’s SOGIE, even if this violates the caregiver’s
 21 belief system.

22 185. And Department policies categorically require caregivers to agree to
 23 engage in activities supporting a child’s SOGIE, even if this violates the caregiver’s
 24 belief system.

25
 26 ⁵⁶ *Id.* at 53 (emphasis added).

⁵⁷ *Id.*

⁵⁸ *Id.*

1 186. For example, to complete the home study, an agency must “[a]ssess how a
 2 family will *support* a child’s SOGIE and LGBTQIA+ identity.”⁵⁹

3 187. To assess whether a caregiver will support a child’s SOGIE, an agency
 4 asks whether the caregiver will use chosen pronouns, display “Pride flags or similar
 5 indicators,” or take a child to gay-pride parades.⁶⁰

6 188. To assess whether a caregiver will support a child’s SOGIE, an agency
 7 asks whether the caregiver will support a child’s desire to “explor[e] their gender
 8 identity or expression,” or to “dress[] in opposite-gender clothing, [and] play[] with
 9 opposite-gender toys.”⁶¹

10 189. To assess whether a caregiver will support a child’s SOGIE, an agency
 11 asks whether the caregiver will seek support or counseling to help their
 12 “assimilation process” and to “learn supportive language or strategies.”⁶²

13 190. Under § 1520, caregivers must agree to use a child’s chosen name and
 14 pronouns. WAC § 110-148-1520(9).

15 191. Under § 1520, caregivers must agree to affirm through their speech and
 16 behavior that a child’s professed gender identity is true and valid.⁶³

17 The Department rejects the DeGrosses’ application

18 192. The DeGrosses’ fostering license was set to expire in August 2022.

19 193. In May of 2022, the DeGrosses began working with Olive Crest—their
 20 licensing agency—to renew their license.

21 194. Nothing substantial had changed in the DeGrosses’ personal
 22 circumstances since the last time they renewed their license.

25 ⁵⁹ *Id.* at 50 (emphasis added).

26 ⁶⁰ *Id.* at 54.

27 ⁶¹ *Id.* at 55.

28 ⁶² *Id.*

29 ⁶³ *Id.*

1 195. The DeGrosses were well qualified to renew their foster-care license,
 2 except that their religious beliefs conflicted with some of the Department's new
 3 requirements set out in § 1520.

4 196. In late August/early September, Ashlynn McDonald—an Olive Crest
 5 licensing coordinator—began to have conversations with the DeGrosses about the
 6 updated WACs, including § 1520.

7 197. McDonald explained that the updated WACs required applicants to agree
 8 to support a child's SOGIE.

9 198. McDonald also explained that the updated WACs required applicants to
 10 concretely explain how they would support a child's SOGIE.

11 199. This placed the DeGrosses in a bind.

12 200. As Christians, the DeGrosses believe that a person's biological sex is an
 13 immutable characteristic, given by God that cannot be changed.

14 201. They believe that a person's male or female biology carries spiritual
 15 significance for who they are and how they interact with other people.

16 202. They believe that as image bearers of God, a person should live consistent
 17 with their God-given sex rather than contrary to God's design.

18 203. In their conversations with McDonald, the DeGrosses explained that they
 19 would love and support any child placed in their home.

20 204. The DeGrosses also explained that they could not say or do anything that
 21 went against their Christian faith.

22 205. In a September 7 email, McDonald stated: "we need to talk more about ...
 23 how specifically you will approach situations that might be more uncomfortable or
 24 new to you. I need to be able to state concretely what the plan would be to deal with
 25 that situation."

1 206. McDonald explained that “saying ‘I will support a child’ was not enough.
 2 Rather, the Department “is looking for ‘I will support a child by referring to
 3 him/her/them by preferred name and pronouns.””

4 207. McDonald explained that the regulations “are very specific and clear
 5 about what is and is not considered supportive for children in care,” and attached a
 6 document with parts of § 1520 copied and pasted into it.

7 208. McDonald also provided examples of ways in which the DeGrosses could
 8 support a child’s SOGIE, like:

- 9 • Allowing a child to paint their nails “regardless of gender”
- 10 • Using and respecting a child’s name and pronouns
- 11 • Taking a child to a local PRIDE event or finding an adult to chaperone
 them

13 209. McDonald added that: “I know this may seem very stringent with no
 14 room for compromise. That is truly the way of things currently.”

15 210. McDonald continued: “It is clear to me that you both have a heart for
 16 serving children in your community and also for sharing the truth of Jesus with the
 17 children who enter your home.”

18 211. And McDonald added that: “Other families licensed within Olive Crest
 19 have had to make the personal decision of whether these requirements are
 20 something they can realistically follow.”

21 212. On September 22, the DeGrosses met with McDonald and her supervisor
 22 Angela Youtsey.

23 213. The DeGrosses reiterated that they would love and support any child
 24 placed with them, but they would not use a child’s pronouns or affirm that a child
 25 can transition to a gender that is different than their biological sex.

1 214. Afterwards, McDonald asked the DeGrosses to write in their own words
 2 their answers to the SOGIE questions on a form titled the Home-Inspection
 3 Checklist.

4 215. The DeGrosses reiterated that they would “love and support any child
 5 who is placed in [their] home,” but they were not “willing to use a child’s preferred
 6 pronouns,” or to say that a male child “can identify as a female” or vice-versa,
 7 because of their religious beliefs.

8 • We will love and support any child
 9 who is placed in our home.
 10 • We are not willing to use a child's
 11 preferred pronouns that are contrary
 12 to their biological gender as it violates
 13 our religious beliefs.
 14 • We are not willing to say that a child
 15 who is a biological male can identify
 16 as a female or a child who is a
 17 biological female can identify as a male as it violates
 18 our religious beliefs.
 19 Applicant #1 Applicant
 20 #2 in

21 216. A license or renewal application requires the preparing agency to certify
 22 that the applicants meet all of the WACs. *Supra ¶¶ 73–74.*

23 217. But Olive Crest could not certify that the DeGrosses met all of the WACs
 24 because of their religious objections to using pronouns or otherwise supporting a
 25 child’s desire to identify as transgender or non-binary.

26 218. Olive Crest nonetheless attempted to find a work-around that would
 27 allow the DeGrosses to renew their license.

1 219. Olive Crest drafted a statement as part of the renewal assessment,
 2 explaining that the Department should certify the DeGrosses even though they
 3 could not comply with the parts of § 1520 that required them to violate their beliefs.

4 220. In that statement, McDonald wrote that the DeGrosses were a “very
 5 loving and gracious couple who truly desire to support other foster families.”

6 221. McDonald wrote that the DeGrosses were “organized,” “flexible,” able to
 7 “integrate a child/children into their family dynamics,” a “strong team,” and “excited
 8 to be a support to other families through providing respite care.”

9 222. McDonald explained that the updated WACs forced the DeGrosses to
 10 violate their sincerely held beliefs, and that they wanted to open their home to
 11 children “without compromising their personal religious beliefs.”

12 223. McDonald also wrote that the DeGrosses felt their religious objections did
 13 not “negate[] their ability to show children love and provide … a safe place to be.”

14 224. After submitting the application to the State, the State rejected it.

15 225. In an email on October 13, McDonald explained that the Department
 16 would not accept the DeGrosses’ application because Olive Crest could not “sign off
 17 on it with a WAC violation present.”

18 226. McDonald explained that Youtsey’s supervisor would “press the issue”
 19 with someone higher up in the Department.

20 227. The Department still refused to accept the application.

21 228. On October 24, the DeGrosses spoke to McDonald on the phone.

22 229. McDonald reported that her team had communicated to the Department
 23 that the DeGrosses would be used for respite care and that Olive Crest was
 24 confident that the DeGrosses could care for children without running afoul of the
 25 WACs or making children feel discriminated against.

1 230. McDonald explained that, according to the Department, Olive Crest had
2 to certify that the DeGrosses would “follow all WACs to the letter without any
3 exceptions.”

4 231. McDonald explained that the Department was unwilling to budge and
5 would not accept the application.

6 232. McDonald also stated Olive Crest was indifferent regarding the updated
7 WACs and § 1520.

8 233. McDonald explained that Olive Crest acted only as a middleman between
9 the Department and the applicant.

10 234. McDonald stated that she had personally hoped the Department would
11 make an exception in this case and renew the DeGrosses’ license.

12 235. McDonald reiterated that, according to the Department, there “were no
13 exceptions.”

14 236. On November 2, the DeGrosses clarified by email whether “the only
15 problem” with their renewal was their inability “to use a child’s preferred pronouns
16 or affirm a child’s transgender identity according to the revised WACs.”

17 237. On November 3, McDonald confirmed that the Department’s “policy
18 change” [referring to § 1520] prevented them from being relicensed.

19 238. McDonald explained that the Department would not accept their
20 application because of “[their] stated inability to comply with recent Washington
21 State WAC updates.”

22 239. The DeGrosses later learned from a different Olive Crest employee that
23 there were other families who did not receive their licenses because they could not
24 agree to the updated WACs.

25

26

1 The DeGrosses' dilemma

2 240. The DeGrosses stand ready and able to reapply for their foster-care
 3 license and desire to do so as soon as possible.

4 241. But § 1520 requires the DeGrosses to say and do several things that
 5 violate their religious beliefs about the significance of biology and sex.

6 242. First, § 1520 facially requires applicants to agree to use a hypothetical
 7 child's stated pronouns and chosen name. WAC § 110-148-1520(9).

8 243. So applicants must agree to call a male by feminine pronouns and to call
 9 a female by masculine pronouns.

10 244. Applicants must agree to use other pronouns, like non-binary "they/them"
 11 pronouns or "ze/zir" neopronouns.

12 245. Applicants must agree to refer to children who identify as transgender,
 13 non-binary, or anything else, according to their professed gender identity rather
 14 than their sex.

15 246. But the DeGrosses believe that biological sex is an immutable
 16 characteristic from God that cannot be changed.

17 247. The DeGrosses believe that they would bear false witness if they
 18 expressed the view that gender can be fluid or distinct from someone's sex.⁶⁴

19 248. The DeGrosses cannot use inaccurate pronouns, or otherwise refer to a
 20 child in a way that suggests their gender is fluid or distinct from their sex.

21 249. Second, because § 1520 requires applicants to "support a foster child's
 22 SOGIE," WAC § 110-148-1520(9), applicants must express a supportive view—and
 23 only a supportive view—about a child's gender identity or associated behavior.

24 250. This requires applicants to refrain from speaking or expressing
 25 religiously informed views that people should act and identify consistent with their
 26 sex.

⁶⁴ See *id.* at 55 ("A child's LGBTQIA+ identity is often fluid and develops over time.").

1 251. This requires applicants to refrain from speaking or expressing views
 2 that sex is immutable and cannot be changed.

3 252. This requires applicants to refrain from speaking or expressing other
 4 views on human sexuality that do not accord with the State's views on SOGIE.

5 253. But the DeGrosses want to honor God in all aspects of their life, and
 6 desire to speak openly and truthfully about their faith and about our human nature
 7 with their future foster children, so long as their foster children are receptive.

8 254. The DeGrosses would never force their beliefs onto a child.

9 255. Rather, they want to share their beliefs in a kind and loving manner.

10 256. They seek witness to their faith by living consistent with their beliefs in
 11 word and deed.

12 257. So the DeGrosses would never embarrass, tease, shame, threaten, or in
 13 any way abuse a child because of how they identified, or because the child disagreed
 14 with their religious beliefs about the spiritual significance of the human body.

15 258. Rather, the DeGrosses would love any child that comes into their home
 16 just as they love their own children.

17 259. If the DeGrosses and a child placed with them came to disagree on any
 18 matter, the DeGrosses would seek to work through that disagreement as they do
 19 with their own children: amicably and respectfully expressing their views and
 20 listening to why a child might disagree with the DeGrosses' views or decisions.

21 260. Third, because § 1520 requires applicants to facilitate a child's access to
 22 cultural, educational, and other resources that support and affirm their SOGIE,
 23 applicants must agree to participate in activities that violate their belief systems.
 24 WAC §§ 110-148-1520(2)(d) ("You must provide and arrange for care that is
 25 appropriate for the child's ... SOGIE This includes cultural and educational
 26 activities in your home and the community."); -1520(7) ("You must connect a foster
 child with resources that supports and affirms their needs regarding ... SOGIE.").

VERIFIED COMPLAINT
 (CASE NO.: _____)

35

Alliance Defending Freedom
 44180 Riverside Pkwy
 Lansdowne, Virginia 20176
 (571) 707-4655

1 261. This requires applicants to agree to take a child to events like pride
2 parades that promote certain views about human sexuality. *See supra ¶ 187.*

3 262. But the DeGrosses are religiously motivated to refrain from associating
4 with events like pride parades because they convey a message about human
5 sexuality that goes against their faith.

6 263. So the DeGrosses cannot obtain a foster-care license because they will not
7 agree to aspects of § 1520 that require them to speak or act against their faith.

8 264. The DeGrosses' prior application to renew their license was denied solely
9 because they could not comply with these aspects of § 1520.

10 265. It would be futile for the DeGrosses to reapply to any public or private
11 child-placing agency to renew their foster-care license because of § 1520.

12 266. Further, the Department refuses to grant the DeGrosses an exemption
13 from § 1520 requirements that require them to violate their religious beliefs.

14 267. Section 1520 stands as a categorical bar to the DeGrosses renewing their
15 license, regardless of the particular child the Department could place in their care,
16 and regardless of any other circumstances which may arise.

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LEGAL ALLEGATIONS

First Cause of Action:
First Amendment Free Speech and Free Association

268. Plaintiffs reallege and incorporate by reference paragraphs 1-267.

269. The First Amendment forbids any law “abridging the freedom of speech ... or the right of the people peaceably to assemble.” U.S. Const. amend. I.

270. Section 1520 requires applicants to agree to speak certain words, like self-selected pronouns, that express the Department's preferred views on human sexuality, as a condition for accessing foster-care services.

271. Section 1520 requires applicants to engage in certain expressive activities, like pride parades, that express the Department's preferred views on human sexuality, as a condition for accessing foster-care services.

272. Section 1520 requires applicants to stay silent and to refrain from speaking or expressing views that are different from the Department's preferred views on human sexuality as a condition for accessing foster-care services.

273. The Department barred the DeGrosses' foster-care application because they would not agree to speak or otherwise express the Department's preferred views on human sexuality.

274. Because § 1520 requires applicants to speak certain words and engage in certain expressive activities, the Department's policy compels speech and association

275. Because § 1520 requires applicants to stay silent and refrain from expressing certain views on human sexuality, the Department's policy restricts speech and association

276. Because § 1520 requires applicant to speak the Department's preferred views on human sexuality, or to otherwise stay silent, the Department policy regulates speech based on content and viewpoint.

277. The Department's discriminatory policy does not serve any valid or compelling interest in a narrowly tailored way when it infringes on the DeGrosses' free-speech and free-association rights.

278. The Department's discriminatory policy is also facially invalid because it gives state officials unbridled discretion and imposes overbroad restrictions on speech and association.

279. Facially and as applied, the Department's policy violates the Free Speech and Freedom of Assembly Clauses.

Second Cause of Action:
First Amendment Free Exercise

280. Plaintiffs reallege and incorporate by reference paragraphs 1-267.

281. The First Amendment forbids any law prohibiting or penalizing the free exercise of religion. U.S. Const. amend. I.

282. The DeGrosses are religiously motivated to provide foster care, and religiously motivated to live out their faith at home and express their religious views on human sexuality at home.

283. But the Department conditions their ability to provide foster care on their willingness to do things that violate their religious beliefs, like using self-selected pronouns or taking a child to pride parades.

284. Because they are bound by their religion and conscience, the DeGrosses will not agree to speak the Department's preferred views on human sexuality, or to engage in any other activities that go against their religious beliefs.

285. The Department's policy significantly burdens the DeGrosses' religious exercise by putting them to a choice between fidelity to their religious beliefs and serving children in foster care.

286. The Department's policy is not neutral nor generally applicable because it provides for individualized and categorical exemptions without extending an

exemption to religious persons like the DeGrosses, thereby treating comparable secular conduct better than religious exercise. The policy also imposes special disabilities based on religious beliefs and works as a religious gerrymander.

4 287. The Department's Policy is also not neutral because it targets the
5 DeGrosses' religious beliefs out of religious hostility and judges their religious
6 beliefs to be illegitimate and offensive.

7 288. Because the Department's policy compels the DeGrosses to violate their
8 faith, and the Department declines to extend an exemption to religious objectors
9 like the DeGrosses, the policy is also inconsistent with the history and tradition of
10 the Free Exercise Clause.

11 289. Because the Department's policy compels the DeGrosses to speak and to
12 engage in expressive activities that violate of their religious beliefs, it also burdens
13 free-exercise rights in conjunction with free-speech and free-association rights.

14 290. The Department's discriminatory policy does not serve any valid or
15 compelling interest in a narrowly tailored way when it infringes on the DeGrosses'
16 free-exercise rights.

¹⁷ 291. As applied, the Department's policy violates the Free Exercise Clause.

Third Cause of Action:

Fourteenth Amendment: Equal Protection

292. Plaintiffs reallege and incorporate by reference paragraphs 1-267.

293. The Fourteenth Amendment guarantees "the equal protection of the
laws." U.S. Const. amend. XIV, § 1.

23 294. The Department's policy categorically excludes applicants with religious
24 beliefs the Department disfavors.

295. By categorically excluding the DeGrosses from child welfare services
296 because of their religious beliefs, the policy invidiously discriminates based on

1 religion and treats the DeGrosses worse than similarly situated persons who do not
 2 share their religious beliefs.

3 296. As applied, the policy violates the Equal Protection Clause.

4 **PRAYER FOR RELIEF**

5 Plaintiffs respectfully request that this Court enter judgement against
 6 Defendants and provide Plaintiffs with the following relief:

- 7 1. A declaration that the Department's policy violated and continues to
 9 violate Plaintiffs' constitutionally protected rights to free speech, free
 10 association, religious exercise, and equal protection of the law;
- 11 2. A permanent injunction to stop Defendants, and any person acting in
 concert with them, from enforcing the Department's policy to deny
 13 Plaintiffs a foster-care license based on their protected speech or
 religious exercise or to deny a foster-care license to similarly situated
 15 persons who want to engage in protected speech or religious exercise
 materially similar to Plaintiffs;
- 17 3. That this Court award Plaintiffs' costs and expenses in this action,
 18 including reasonable attorney fees, in accordance with 42 U.S.C. § 1988;
- 19 4. That this Court award Plaintiffs nominal and punitive damages related
 to Plaintiffs' claims against Defendant Hunter in his individual capacity;
- 21 5. That this Court adjudge, decree, and declare the rights and other legal
 relations of the parties to the subject matter here in controversy so that
 23 these declarations shall have the force and effect of a final judgment;
- 24 6. That this Court retain jurisdiction of this matter for the purpose of
 enforcing its orders;
- 25 7. That this Court issue the requested injunctive relief without a condition
 of bond or other security required of Plaintiffs; and

VERIFIED COMPLAINT
 (CASE NO.: _____)

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8. That this Court grant any other relief that it deems equitable and just in the circumstances.

Respectfully submitted this 22nd day of March, 2024.

s/ Conrad Reynoldson
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*Counsel for Plaintiff
*Pro Hac Vice Application
Forthcoming*

1 **DECLARATION UNDER PENALTY OF PERJURY**

2 I, Jennifer DeGross, have read the foregoing complaint. I declare under
3 penalty of perjury, pursuant to 28 U.S.C. § 1746, that the factual allegations
4 pertaining to my personal experiences are true and correct to the best of my
5 knowledge.

6 Executed this 19 day of March, 2024, at Kitsap County, WA.

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8 Jennifer DeGross
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(CASE NO.: _____)
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Lansdowne, Virginia 20176
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1 **DECLARATION UNDER PENALTY OF PERJURY**

2 I, Shane DeGross, have read the foregoing complaint. I declare under
3 penalty of perjury, pursuant to 28 U.S.C. § 1746, that the factual allegations
4 pertaining to my personal experiences are true and correct to the best of my
5 knowledge.

6 Executed this 19 day of March, 2024, at Hopewell, VA.

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8 Shane DeGross
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VERIFIED COMPLAINT

(CASE NO.: _____)

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